

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2021-363-E ORDER NO. 2022-286

APRIL 28, 2022

IN RE: Valli Finney, Complainant/Petitioner v.)	ORDER GRANTING
Duke Energy Progress, LLC,)	RECONSIDERATION AND
Defendant/Respondent)	DISMISSING COMPLAINT

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition to Reconsider (“Petition”) of Duke Energy Progress, LLC, (“DEP” or “Company”) the Commission’s Order No. 2022-160, which denied DEP’s Motion to Dismiss the Complaint of Ms. Valli Finney (“Ms. Finney” or “Complainant”). The Petition is timely filed pursuant to S.C. Code Ann. Section 58-27-2150 and S.C. Code Ann. Regs. 103-825(A)(4). DEP also seeks confidential treatment for some information contained in its Petition pursuant to S.C. Code Ann. Reg. 103-804(S)(4), S.C. Code Ann. Section 30-4-10, et seq. and S.C. Code Ann. Section 30-2-10, et seq.

II. DISCUSSION

On November 30, 2021, Ms. Finney filed a Complaint with the Commission alleging that she was wrongfully removed from the Equal Payment Plan – a billing option by which she makes levelized payments for her electric service to DEP. Essentially, due to a miscommunication, Ms. Finney’s account was flagged as serving a decedent and was removed from the Equal Payment Plan.

The facts are undisputed and as follows:

- On September 10, 2021, the account — which was enrolled in DEP's Equal Payment Plan — was removed from the Equal Payment Plan.
- On October 25, 2021, Mrs. Finney called to ask why the account was removed from the Equal Payment Plan. The error was discovered, and the account was enrolled in the Budget Billing Program. DEP asserts that a handwritten apology and gift cards were sent to Mrs. Finney explaining the situation and the result.
- On November 23, 2021, Mrs. Finney contacted DEP and advised that she had not received the gift cards or the apology.
- On November 30, 2021, Mrs. Finney filed the Complaint which is now before the Commission.

The legal procedure continued on December 30, 2021, with DEP filing its Answer and a Motion to Dismiss. The Motion to Dismiss was denied by the Commission on February 3, 2022, with Order No. 2022-160 being issued on March 4, 2022.

Order No. 2022-160 concluded that DEP had failed to meet the standard for dismissal of the Complaint because “there is an issue of fact outstanding which could plausibly reveal a measure of injury to the Complainant due to the improper action of DEP.”¹ In support of its conclusion in that Order, the Commission noted that “[w]hile the Equal Payment Plan has been discontinued, customers still enrolled in the Equal Payment

¹ Order No. 2022-160, p. 3.

Plan continue to be able to be served on that plan.”² The Commission further found that the “issue of whether any benefit or difference has been improperly removed from the Complainant by removing the household account from the Equal Payment Plan is remaining.”³

In DEP’s Motion for Reconsideration of Order No. 2022-160, filed on March 14, 2022, DEP clarifies several former ambiguities. First, DEP clarified that the Complainant paid less during the September, October, and November 2021 time period than if she had been enrolled on a levelized payment plan.⁴ Second, DEP clarified that there is a “replacement in name only” between the Annual Budget Billing Plan and the former Equal Payment Plan and that no customers were grandfathered into the Equal Payment Plan.⁵ In fact, the Equal Payment Plan does not exist after September 24, 2021.⁶

Based on the additional information provided in the Petition, DEP reiterates its request for dismissal because all actionable requests related to this matter are moot inasmuch as all actionable requested relief has been provided.

III. FINDINGS OF FACT

1. The Commission finds Ms. Finney has not experienced any harm or injury due to the wrongful removal of her account from the Equal Payment Plan.

2. It is not possible to return Ms. Finney to the Equal Payment Plan, since it no longer exists for any customer after September 24, 2021.

² *Id.*, p. 2.

³ *Id.*

⁴ Petition for Reconsideration at pp. 3-4.

⁵ Petition for Reconsideration at p. 4.

⁶ Petition for Reconsideration at p. 4.

3. Ms. Finney has been placed on a levelized payment plan that is in every way – except the program name – identical to the one she was on before being wrongfully removed.

IV. CONCLUSIONS OF LAW

1. In consideration of Finding of Fact 1, Ms. Finney suffered no harm, due to the action of DEP. Since no injury has been incurred, there is nothing for the Commission to redress except to return her to the status she was in prior to the conduct of DEP.

2. In consideration of Finding of Fact 2, the relief sought in Ms. Finney's Complaint – to be returned to the legacy Equal Payment Plan – is impossible, since that program no longer exists. Where, as here, the specific relief sought is impossible to grant, then as to that prayer for relief the matter lacks redressability by the Commission.

3. In consideration of Finding of Fact 3, in the absence of injury-in-fact, DEP has taken action to prevent the Complainant from being subject to future potential harm from the acts of the Company. This action returns, to the extent possible, the Complainant to the status she was in prior to the actions of the Company. There is no further Action may be ordered by the Commission.

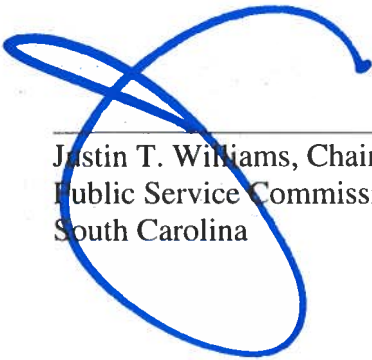
4. Regarding the request for confidential treatment, the information for which protection is sought is customer-specific account information of a personally identifiable nature which is appropriately afforded confidential treatment.

V. ORDERING PROVISIONS

IT IS THEREFORE ORDERED:

1. The Petition for Reconsideration filed by Duke Energy Progress, LLC is granted.
2. The Motion for Confidential Treatment for account information contained in the Duke Energy Progress, LLC Petition is granted, and that information shall be held under seal.
3. The Motion to Dismiss the Complaint of Ms. Valli Finney is granted, and the Complaint is hereby dismissed.
4. The docket is hereby administratively closed.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina